

TITLE 316 - NEBRASKA DEPARTMENT OF REVENUE
Chapter 58 Tobacco Product Manufacturers

Reg-58-002 Definitions

002.01 Brand family means all styles of cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, including, but not limited to, menthol, lights, kings, and 100s, and includes any brand name, alone or in conjunction with any other word, trademark, logo, symbol, motto, selling message, or recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of cigarettes.

002.02 Cigarette means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains (a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; (b) tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or (c) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in clause (a) of this paragraph.

002.02A The term cigarette includes roll-your-own tobacco (i.e., any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes). For purposes of this definition, nine-hundredths of an ounce of roll-your-own tobacco shall constitute one individual cigarette.

002.03 Master Settlement Agreement means the settlement agreement entered into on November 23, 1998, between the state and specific United States tobacco manufacturers and related documents to such agreement.

002.04 Nonparticipating manufacturer means any tobacco product manufacturer that is not a participating manufacturer.

002.05 Participating manufacturer has the same meaning as in section II(jj) of the Master Settlement Agreement. Generally, Participating Manufacturer means a Tobacco Product Manufacturer that is or becomes a signatory to the Master Settlement Agreement.

002.06 Qualified escrow fund means an escrow arrangement with a federally or state-chartered financial institution having no affiliation with any tobacco product manufacturer and having assets of at least one billion dollars where such arrangement requires that such financial institution hold the escrowed funds' principal for the benefit of releasing parties and prohibits the tobacco product manufacturer that places such funds into escrow from using, accessing, or directing the use of the funds' principal except as consistent with subdivision (2)(b) of § 69-2703.

002.07 Qualified escrow agreement means an escrow agreement that has been reviewed and approved by the Attorney General or submitted to the Attorney General for review.

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002.08 Stamping agent means a person that is authorized to affix tax stamps to packages or other containers of cigarettes under §77-2603, licensed wholesaler, or any person that is required to pay the other tobacco products tax imposed pursuant to §77-4008 on roll-your-own cigarettes.

002.09 Tax Commissioner means the Tax Commissioner of the State of Nebraska.

002.10 Tobacco product manufacturer means an entity that after April 29, 1999, directly and not exclusively through any affiliate:

002.10A Manufactures cigarettes anywhere that such manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer (except when such importer is an original participating manufacturer [as that term is defined in the Master Settlement Agreement] that will be responsible for the payments under the Master Settlement Agreement with respect to such cigarettes as a result of the provisions of subsection II(mm) of the Master Settlement Agreement and that pays the taxes specified in subsection II(z) of the Master Settlement Agreement, and provided that the manufacturer of such cigarettes does not market or advertise such cigarettes in the United States);

002.10B Is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States; or,

002.10C Becomes a successor of an entity described in 002.10A or 002.10B.

002.10D The term tobacco product manufacturer does not include an affiliate of a tobacco product manufacturer unless such affiliate itself falls within 002.10A through 002.10C.

002.11 Units sold means the number of individual cigarettes sold in the state by the applicable tobacco product manufacturer, whether directly or through a distributor, retailer, or similar intermediary or intermediaries, during the year in question, as measured by excise taxes collected by the state on packs or the weight of roll-your-own tobacco containers.

002.11A Units sold for roll-your-own tobacco is the total weight of the tobacco sold in ounces divided by nine-hundredths of an ounce.

(Sections 69-2702, 69-2705, and 69-2710, R.S.Supp., 2003. December 29, 2003.)